

## REMARKS

Claims 42-60 are pending in the present application.

Claim 42 is amended.

Reconsideration on the merits is respectfully requested.

The claims are believed to be allowable for the reasons set forth herein. Notice thereof is respectfully requested.

### Amendments to the Specification

The specification is amended to properly recite the filing date of the application from which this application depends.

### Claim Rejections - 35 USC § 102

Claims 42-44 and 52-60 are rejected under 35 U.S.C. 102(b) as being anticipated by Shah et al. (US Pat. No. 6,219,222).

Claim 42 has been amended thereby rendering the rejection under 35 U.S.C. 102(b) directed thereto moot.

Claims 43, 44 and 52-60 ultimately depend from claim 42 and the rejection directed thereto is also rendered moot by the amendment of claim 42.

Claim Rejections - 35 USC § 103

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shah et al.

The Office has opined that it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize an electrolyte with the specific amount of sulphuric acid, the specific amount of boric acid and the specific amount of phosphorous oxy acid based on the teachings of Shah et al. Applicants respectfully traverse.

Shah et al. list specific acids that are considered useful in col. 1, lines 53-55. This list does not include boric acid. The omission of boric acid from the list of "useful acids" would lead one of skill in the art to conclude that it would not be useful. Nowhere in the teachings of Shah et al. is boric acid mentioned. Therefore, one of skill in the art would have no motivation to even consider boric acid except in hindsight based on the instant specification. Even then, one would still have no basis for determining the specific combination and amounts of acids listed in claim 45 except through extended experimentation.

Shah et al. lacks any indication that boric acid would be beneficial, lacks any indication that combinations of acids including boric acid would be beneficial and any indication that the multiple acids are beneficial. Therefore, Shah et al. is totally devoid of any motivation to consider acids outside of those considered to be useful.

Applicants respectfully submit that the Office has read extraneous information into Shah et al. based on a reading of the present invention. Even then, the amendment of claim 1 indicates that the solvents listed in Shah et al. are not present in the claimed invention and therefore both the solvent and the acid are lacking.

One of skill in the art would have no basis from Shah et al. for combining solvents, which are not taught, with acids, which are not taught, to arrive at specific combinations and amounts of these untaught materials. A rejection based on a hindsight reconstruction is improper when the reference lacks the elements required to be combined.

The rejection of claim 45 under 35 U.S.C. 103(a) as being unpatentable over Shah et al. is traversed.

Claims 46, 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah et al. in view of Uehara et al. (U.S. Pat. No. 6,042,740).

The present application and Shah et al. are both directed to a working electrolyte.

Uehara et al. is directed to a forming electrolyte used to form a solid electrolyte on an anode for use in a solid capacitor. Electrolyte formation occurs by chemical oxidative polymerization of components of the forming electrolyte. One of skill in the art would have no basis for supplanting a portion of the forming electrolyte into a working electrolyte, or vice versa, except in hindsight.

Assuming, *arguendo*, one were to consider the electrolyte of Uehara et al. as a working electrolyte, even in hindsight, they would expect the monomers to polymerize during capacitor use which would cause unknown problems within the capacitor. If the monomers are removed from the forming electrolyte one would have no basis upon which to choose from the remaining ingredients since the functionality of the forming electrolyte is destroyed.

Applicants respectfully submit that one of skill in the art would not consider a forming electrolyte for teachings related

to a working electrolyte except in hindsight and, even then, there would be no teachings regarding which components to utilize or the amounts.

The rejection of claims 46, 50 and 51 under 35 U.S.C. 103(a) as being unpatentable over Shah et al. in view of Uehara et al. is traversed.

Claims 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah et al. in view of Ferritto et al. (U.S. Pat. No. 6,653,378).

Shah et al. is directed to a working electrolyte for an electrolytic capacitor.

Ferritto et al. is directed to a silicone elastomer useful in personal care products, textiles, auto care products, laundry ingredients and for the delivery of active ingredients. Applicants are at a loss as to how one of skill in the art would be led to Ferritto et al. in search of a solvent suitable for use in a working electrolyte of a capacitor. Ferritto et al. represents non-analogous art. There is no motivation in Shah et al. or Ferritto et al. which would lead one to consider the combination.

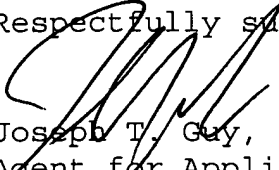
Even if one did combine these non-analogous references, based on hindsight, there is no suggestion that such a combination would have any benefit. The Office has opined that one would expect the combination to provide higher conductivity and high voltage breakdown without providing any guidance where this expectation arises. There is no discussion in Ferrito et al. concerning properties of interest to a capacitor and none are expected since this is directed to formation of a silicone elastomer compositions. The fact that Ferrito et al. recites certain solvents is irrelevant. The solvents listed are commercially available and a listing is available in many sources. What is lacking is any motivation to lead one of skill in the art to conclude that a solvent taught to be useful in formation of certain polymers would also be useful in a working electrolyte of a capacitor.

This rejection is traversed as being based upon a hindsight combination of non-analogous art wherein the only motivation for such a combination is provided by the instant application.

### CONCLUSIONS

Claims 42-60 are pending in the present application. All claims are in condition for allowance. Notice thereof is respectfully requested.

Respectfully submitted,

  
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February 10, 2005